DETAILED ACTION

Claims 1- 6, 8-11 are pending. Claim 7 is cancelled.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in on 12-12-06. It is noted, however, that applicant has not filed a certified copy of the foreign priority application as required by 35 U.S.C. 119(b).

Claim Objections

1. Claim1 is objected to because of the following informalities: in (b5) pirimiphos-methyl is misspelled as pirimiphos-, methyl. Appropriate correction is required.

2. Claim 5 is objected to because of the following informalities: in line 2 and 3 the word "compounds" should be singular as it refers to a single compound of formula (IC).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Applicants claim trifluorobutinyl compounds that exhibit nematicidal and insecticidal properties that can be used for controlling pests.

Claims 1-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over teachings of watanabe et al (WO 01/02378 A1, listed as FP8 in IDS) in view of Cullen et al (US 4,748,186), and Assmann et al (US 6,277,791 B1)

Watanabe et al teach preparation of trifluorobutenes for use as nematicides. (Abstract). Watanabe et al exclusively teach preparation of 2-(3,4,4-trifluoro-3-butenylthio)-thiazole (Page 3, lines 8-15) by process (B), their teachings include tribluorobutenes of the formula (I) where x represents halogen and n represents 0,1,or 2 (Page 1, lines 13-20). They also teach examples of particularly advantageous mixing components (Page 8, line 29) . These mixing components

include, fungicides, (Page 9). Mixing agents also include insecticides / acaricides / nematicides. These insecticides include aldicarb (Page 13, line 2). They also teach use of these nematicides as mixtures with synergists (Page 15, lines 26-28). Additionally they do teach that their nematicidal compositions are mixed with extenders and/or surface active agents (Page 24, Claim 10). Watanabe et al teachings include a mixture with synergists, and synergists need not be active components of the mixture (page 15, lines 28-30). Thus suggesting an additive like extender or surface active agent can be a synergist.

Watanabe et al teachings are silent about use of their trifluorobutenes as pesticides. Though nematicides which kill nematodes which are also pests, thus nematicides are also pesticides. However Cullen et al teach triflurobutenyl derivatives use in agriculture for combatting nematodes and helminths and diseases induced by such pests. Thus they clearly teach use of triflurobutenyl derivatives as pesticides. .

Assmann et al teach use of their active compounds (pesticides) mixed with known fungicides, nematicides etc. to widen the spectrum of action. They also teach, that by mixing these components synergistic effects are achieved i.e., the activity of the mixture exceeds the activity of the individual components (Col.13, lines 25-32). Assmann et al also teach that when compounds are used as pesticides, they can have a mixture with synergists. These synergists are compounds which increase the acivity of the active compounds, without it being necessary for the synergist which is added to be active itself (Col.17, lines 19-25). Thus indicating any additive like an extender or surface active agent can be a synergist.

Thus combining teachings of Watanabe et al with Cullen et al and Assman et al, trifluorobutene compounds (nematicide) in combination with aldicarb (fungicide) will have synergistic effect. Additionally as taught by Assman et al pesticide formulation mixture with additives can also have synergistic effect, the additive need not be active by itself. Thus suggesting an extender can also act as a synergist.

Thus trifluorobutenyl compound which is an nematicide mixed with aldicarb an insecticide can be a synergistic mixture additionally containing an extender and/or surface active agent, which can also act as a synergist. Thus this mixture will have synergistic effect on killing pests.

Thus it was obvious to prepare a trifluorobutenyl compound in a mixture with aldicarb additionally containing an extender or surfactant as claimed by applicants (Claims 1-11).

Based on the prior art teachings as stated above, it was obvious for an ordinary skilled artisan to prepare a synergistic composition comprising trifluorobutenyl compound with aldicarb, additionally containing an extender as claimed by applicants for use as pesticide..

Thus there is reasonable expectation of success as set forth above in the instant office action.

Other Matter

Applicants are kindly encouraged to amend the instant claims (e.g. claim 1) to utilize proper Markush group language, such as in the description of item (b) of claim 1.

Conclusion

Claims 1- 6, 8-11 are rejected. No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SRIRAM KASTURI whose telephone number is (571)270-5263. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres or Cecilia Tsang can be reached on 571-272-0867 or 571-272-0562 respectively. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sriram Kasturi/
Examiner

/Cecilia Tsang/

Supervisory Patent Examiner, Art Unit 4131